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COMMUNICATION
FROM
THE EXECUTIVE,

ENCLOSING

A Correspondence &c. relative to Bemis, and others.

BY THE HOUSE OF DELEGATES,
April 1, 1839.

Read and referred to the Committee on Grievances and Courts of Justice.

By order,

GEO. G. BREWER, Clerk,

April 1st 1839.

To the Senate and House of Delegates.

Gentlemen:—I submit for your consideration, a communication from Jonathan Merredith, Esq. containing a copy of his correspondence with the government of Pennsylvania, and of bills, introduced into the Legislature of that State, in relation to the case of Nathan S. Bemis, and others.

Very respectfully,

Your obedient servant,

WM. GRASON,

Baltimore, 29th March, 1839.

To CORNELIUS MCLEAN, Esq.

Secretary of State.

Sir:—Referring to my letter of the 24th of December last, addressed to your department, I have now the honor to transmit herewith, copies of my correspondence with the Secretary of the Commonwealth of Pennsylvania, during my two visits to Harrisburg, numbered from 1 to 10, inclusive, together with a copy of the message of His Excellency, the Governor, to the Senate and House of Representatives of that State, numbered 11.

This message, with the accompanying documents, consisting of my communication No. 9. and a copy of the resolutions of the

Nov. 18, 1985
Spec. Coll.
Anti-Slavery

General Assembly of Maryland, of the 7th of March 1838, having been referred, in each branch of the Legislature, to the Committee on the Judiciary System, I addressed the note (No. 12.) to the Chairman; and having received an immediate reply (No. 13.) from the Senate Committee, I accepted the invitation to a conference, in which I endeavoured to maintain the positions assumed in the Maryland resolutions.

From the Chairman of the Committee on the Judiciary, of the House of Representatives, who was absent at the date of my note of the 16th of February, (No. 12.) I received no answer until the 7th of March, on which day, at his request, (No. 14. I met that Committee also, and had several subsequent interviews with him and the Chairman of the Senate Committee.

It is perhaps proper that I should reserve for a future communication a more particular report of the progress of this negotiation, which, after much discussion, resulted in an offer to accept the proposition of Maryland, and to submit the questions in controversy to the decision of the Supreme Court of the United States, without compromising in the meanwhile the liberty of the parties implicated. For this purpose a Bill was reported by each Committee, copies of which, numbered 15 and 16, I have the honor also to transmit. The only substantial difference between them bring, as you will observe, that in the one reported to the House of Representatives, the judgment of the Court of Quarter Sessions for York County, if in favor of the defendants, is to be final and conclusive,—while by the Senate Bill, Pennsylvania reserves a right of appeal, in that event, to the Supreme Court of the State.

The arrangement which both Bills are intended to effectuate was, as I understood, unanimously approved of by the two Committees; and no apprehension of objection or difficulty in either legislative branch appeared to be entertained.

The Legislature has adjourned until the 7th of May, and I have received the most positive assurances that its earliest attention will be directed to this subject. As the interval however affords an opportunity of submitting these details of the proposed arrangement to the Government of Maryland, I have thought it proper to make the present communication, so that I may govern myself by such further instructions as may be considered necessary.

I have the honor to be, with great respect,
Your most obedient servant,

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J. MEREDITH,

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No. 1.

Sir:—I ask leave to apprise you of my arrival at Harrisburg, as Commissioner appointed by virtue of certain resolutions of the Legislature of Maryland, in reference to the case of Nathan S. Bemis, and others, citizens of that State, claimed by the Governor of Pennsylvania as fugitives from justice. I beg to know at what time I may have the honor to wait upon His Excellency with my credentials.

And am sir, with very great respect,

Your most obedient servant,

Wilson's Hotel,

J. MEREDITH.

Thursday Evening, 12th April, 1838.

THOMAS H. BURROWES, Esq.

Secretary of the Commonwealth of Pennsylvania.

No. 2.

SECRETARY'S OFFICE,

Harrisburg, 13th April, 1838.

Sir:—In reply to your note of last evening, I have been desired to say that Governor Ritner, if it suit your convenience, will have the pleasure of meeting you on the business of your mission, in the Executive Chamber, at 11 o'clock this forenoon.

I am, sir, with very great respect,

Your obedient servant,

THO. H. BURROWES,

J. MEREDITH, Esq.

Sec. of the Comm'th.

Commissioner of Md.

Wilson's Hotel.

No. 3.

To THOMAS H. BURROWS, Esq.

Secretary of the Commonwealth of Pennsylvania.

Sir:—In presenting my credentials this morning, I had the honor to state verbally to his Excellency, the Governor, the objects of the commission, with which I have been entrusted by the Executive of Maryland. In order however to prevent any possible misconception of their nature, I beg leave to restate them as they are embodied in one of the joint resolutions of the Senate and House of Delegates upon this subject, which is in the following words:—

“Resolved, That his Excellency the Governor, by and with the advice and consent of the Senate, be and he is hereby au-

thorized and requested to appoint some suitable person as a commissioner to repair to Harrisburg, Pennsylvania, and endeavor to procure the dismissal of the prosecutions pending against the said Nathan S. Bemis, Jacob Forwood, Edward Prigg, and Stephen Lewis, citizens of Maryland, or make such arrangements as may be necessary to refer the questions involved to the Supreme Court of the United States without compromising the liberty of the accused, and obtain such modification of the Laws of Pennsylvania, as will preserve the rights of Slave-holders and cherish good will between the two States."

As it is desirable that the negotiation contemplated by this Resolution in reference to the several objects stated, should proceed with as little delay as possible. I must ask leave to call your attention to such measures as shall be deemed necessary for that purpose by the Executive of Pennsylvania.

I have the honor to be,

with grest respect,

your most obd't. servant,

J. MEREDITH.

Harrisburg,

Friday Evening, April 13th, 1838.

No. 4.

SECRETARY'S OFFICE.

Harrisburg, April 14, 1838.

Sir:—Your letter of yesterday evening, containing a copy of one of the joint resolutions of the Senate and House of Delegates of the State of Maryland, (the one in persuance of which you act) has been recieved.

In reply to your request, that such measures as may be necessary to the commencement of the negotiation contemplated by the resolution, shall be adopted with as little delay as possible, I am instructed by Governor Ritner to say, that there is no power vested in the Executive of Pennsylvania, to agree to any of the propositions of the State of Maryland, on the subject involved; they can only be acted on by the Legislature. The Governor, however, directs me to express his readinss to announce your arrival, as commissioner on the part of Maryland to the Legislature at any time you may designate, and to urge such a consideration of the matter, as courtesy to your State and the grave nature of the subject require.

At the same time that he makes this offer, the Governor is of opinion that no legislative action can possibly take place during

the present session. It is now Saturday and the Legislature will finally adjourn on next Tuesday, probably at an early hour, you will therefore perceive that there is little prospect of making any satisfactory progress in the affair now.

Should you come to the conclusion not to broach the subject of your mission to the Legislature at its present session, and should it meet the views of your State, and suit your own convenience to visit Harrisburg at the commencement of the next session, which will be on the first Tuesday of December 1838, I am directed to inform you, that the Governor will then bring the matter fully before the Legislature for its deliberate and final action.

I have the honor to be,
with great respect,
your obd't. serv't.
THO. H. BURROWS.

J. MEREDITH, Esq.,

Commissioner on the part of
the State of Maryland, &c.
Wilson's Hotel.

No. 5.

TO THOMAS H. BURROWS, Esq.

Secretary of the Commonwealth of Pennsylvania,

Sir:—I have the honor to acknowledge the receipt of your note of this date.

Yielding my personal wishes to the opinion of his Excellency the Governor, that the requisite legislative action in reference to the objects of the commission under which I act, cannot possibly take place during the brief remainder of the present session, I have determined not to press the negotiation farther at this time, but considering it as opened and pending, I shall return to Harrisburg as the accredited Agent of the State of Maryland at the commencement of the next session, relying on the assurance you have been kind enough to give me, that the subject will be brought to the notice of the Legislature of Pennsylvania in the annual executive message.

I have the honor to be with great respect,

Your most obedient servant,

J. MEREDITH.

Harrisburg,

Saturday Evening, April 14, 1838.

No. 6.

SECRETARY'S OFFICE,
Harrisburg, Pa. 16th April 1838.

Sir:—Official business caused my attendance in the House of Representatives till the close of the session on Saturday night, so that it was eleven o'clock, P. M. before I received the note (dated 14th inst.) which you did me the honor to have sent to my boarding house.

I write now to acknowledge the receipt of it, and to say that perhaps you and I do not entertain the same views relative to the *pendency* of the negotiation. In my opinion, it is not pending, so as to bind either party to await its result, or to maintain the position occupied by each, before your arrival at this place. Nor is it even opened, unless the recognition of your official capacity by Governor Ritner, and his offer to announce your presence and object in Harrisburg, to the Legislature can be so construed. That this view is correct, will appear from my note of the 14th, in which, by Governor Ritner's direction, it was distinctly stated that the proposition of the State of Maryland, could "be only acted on by the Legislature," and that the Governor had no power in the case. It is therefore supposed that there can be no pendency of a negotiation between two authorities, only one of whom is clothed with power to act on the subject, or to conclude an arrangement.

It is proper for me also to say, that though the subject should you desire it at the proper time, and should that course be deemed right by Governor Ritner, will be laid before the Legislature in the annual message, yet he will feel himself perfectly at liberty to embrace it in a special message, if that mode should seem to him more desirable and proper.

I have the honor to be,

with great respect,

your obd't. serv't.

THO. H. BURROWES.

J. MEREDITH, Esq.,
Commissioner, &c.
Baltimore, Md.

No. 7.

Baltimore, April 25th, 1838.

For T. H. BURROWES, Esq.

Secretary of the Commonwealth of Penn.

Sir:—Having been detained at Philadelphia, on my return

from Harrisburg, your letter of the 16th inst. did not reach me until yesterday.

I regret very much that any difference of opinion should exist between us, as to the actual position of the negotiation, with which I have the honor to be entrusted by the Executive of Maryland, even though such difference should be, as I think it is, wholly immaterial in its consequences. It is true that in my note to you of the 14 h inst., I assumed that the negotiation had been actually opened, and was therefore necessarily pending, as I believed I had a right to do, after the official reception given to me in my representative character, the full disclosure made of the several objects of my mission, and the conferences which followed, both with His Excellency, Governor Ritner, and yourself. But I beg you to be assured that the fact, as I supposed it to be understood between us, was not stated to remind you of any obligation that I may have thought it devolved upon Pennsylvania, because the very high respect I have always cherished for that State could never have allowed me to anticipate the slightest possibility of any violation of the amity which ought to exist between sovereign States, members of the same great confederacy: and because in my judgment the obligation on the part of Pennsylvania if any such can be inferred, to await the issue of the mission, so far as concerns the particular case which originated it, was as perfect when the Commissioner from Maryland was accredited, as it can be in any subsequent stage of the negotiation.

With regard to the other topic noticed in your letter, referring to that of the 14th inst., I was certainly led to believe that it was Governor Ritner's intention to introduce the subject to the notice of the Legislature in his next annual message. The passage in that letter to which I particularly allude is the following: "Should you come to the conclusion not to broach the subject of your mission to the Legislature at its present session and should it meet the views of your State and suit your own convenience to visit Harrisburg at the commencement of the next session, which will be on the first Tuesday of December 1838, I am directed to inform you that the Governor will then bring the matter fully before the Legislature for its deliberate and final action." If I misconceived the import of this language, as it appears I did, I have only now to say, that either course which His Excellency may think proper to adopt for the purpose of bringing the subject before the Legislature at the period mentioned, whether in his annual message, or by a special message,

will be equally satisfactory to me. When that time arrives I entertain the hope, that such a direction may be given to the negotiation, as will ultimately lead to an arrangement that shall consist with the dignity and rights of both the States.

I have the honor to be,

With very great respect,

Your obedient servant,

J. MEREDITH.

No. 8.

TO FRANCIS R. SHUNK, ESQ.,

Secretary of the Commonwealth of Penn.

Sir:—The election of the present chief Magistrate of Pennsylvania, since my last visit to the seat of government as commissioner from Maryland, under certain resolutions of the Legislature of that State, declaratory of the rights of her citizens, over their fugitive slaves, induces me, while apprizing you of my return in the same official character, to ask the honor of a presentation to His Excellency the Governor, at such time as it may be most agreeable to him to receive me.

I am, with great respect,

your most ob't. serv't.

J. MEREDITH.

Wilson's Hotel, Saturday, Feb. 9th. 1839.

No. 9.

TO FRANCIS R. SHUNK, ESQ.

Secretary of the Commonwealth of Pennsylvania.

Sir:—I have the honor to transmit herewith a copy of the Resolutions of the General Assembly of Maryland, declaratory of the rights of the citizens of that State over their fugitive slaves, to which I had occasion to refer in our interview on Saturday. The last of these Resolutions, as you will observe, designates the objects of my appointment, which are, in the first place, to endeavour to procure the dismissal of certain state prosecutions depending in the Court of Oyer and Terminer for the County of York, against Nathan S. Bemis, and three other citizens of Maryland, or to make such other arrangements as may be found necessary to refer the constitutional questions involved in those prosecutions, to the decision of the Supreme Court of the United States,—so that it be done without compromising the liberty of the accused; and in the second place,

to obtain. If it be practicable, such modification of the existing Laws of Pennsylvania in reference to the recaption of fugitive slaves as will better protect the rights of their owners, and tend to perpetuate the friendly relations; which have so long happily subsisted between the two States.

The individuals, for whose protection the State of Maryland has deemed it to be her duty thus to interfere, are charged by the Indictment of a Grand Jury, with a violation of the Laws of Pennsylvania in having forcibly and feloniously seized and carried out of the State into Maryland, a negro woman named Margaret, and her children with the intention of selling or detaining them as slaves for life.

It is, at least for the present unnecessary to advert to the circumstances accompanying the transaction from which this charge originated. When they come however to be examined they will be found to shew, as I think conclusively, the absence of any intentional violation of Law by the parties accused. It is more material to the views of Maryland in relation to this subject, that I should state the fact, of which the record evidence is in my possession, subject to your inspection, that after a very full investigation of the question on a petition for freedom filed in Harford County Court, in behalf and at the instance of the fugitives themselves, assisted by learned counsel, they were upon the finding of a Jury, adjudged to be slaves for life, to the party at whose claim they had been arrested and carried out of the State of Pennsylvania.

This fact having been thus unequivocally established by the judgment of a court of competent jurisdiction in a proceeding instituted for the very purpose of trying the question, by the parties claiming their freedom, the State of Maryland has instructed me respectfully to ask for a dismissal of these prosecutions, on the broad ground, that the exercise of a right, secured to her citizens in common with the citizens of every State in the Union, by the Constitution of the United States, cannot be legally or justly imputed or punished as a crime, by any power of State Legislation.

I am sure sir, that it is quite unnecessary to remind you that in the earlier periods of the history of our country, involuntary servitude very generally existed, as a recognized legal institution, clothing the master with all the rights of property. The laws which regulate personal property enabled him therefore, to pursue, arrest wherever found and carry back to his own

domicil, his absconding slaves, without hindrance or difficulty arising from conflicting opinion or hostile interests. Indeed, this right of recaption was not only sanctioned but enforced, by the customary law of almost every community in the country.

Before the adoption of our constitution however, a partial change in public sentiment had taken place, and new and adverse interests began to produce their effects. Several of the Northern and Eastern States of the confederacy, Pennsylvania among them, whose coloured population fortunately for them, was comparatively small, commenced, as they had a perfect right to do, a system of gradual abolition. But its effects upon the Southern States were quickly felt. The States which had adopted this policy became so many places of refuge for fugitive slaves, and while their numbers increased, the facilities formerly afforded for their reclamation were often either entirely withdrawn or embarrassed by perplexing difficulties.

The subject therefore as we all know, became one of the most intense and absorbing interest in the Convention of 1787. It presented a very formidable difficulty to the framers of the constitution. Indeed it has often been said by those who had the best opportunities for observation, that had it not been finally overcome, the Southern States would not have entered into the Union. A spirit of concession and compromise however, fortunately prevailed, and a provision was at last unanimously adopted which was designed to remove forever all just cause for discontent and complaint.

I need not quote the article of the constitution to which I have referred.

Its scope and intention are most apparent. Its professed object was to guard against a recurrence of the difficulties and vexatious embarrassments to which the citizens of the Southern States had been subjected, to give the owner an unqualified right to the possession of his property, and a constitutional guarantee for its protection, and to enable him to reclaim his fugitive slave in whatever State he might escape to, without molestation, or hindrance of any kind. For this purpose, no more certain means, one would think, could have been devised, than the positive and explicit prohibition which this article contains, against all interference with the subject, by State law or State regulation.

The prohibition is as general and unqualified in its terms as language could have made it. The rights of the master, as they are recognized by the institutions of his own State, cannot

be impaired, or their exercise impeded or embarrassed in any degree without violating both the letter and spirit of this provision.

The relation of master and servant is not to be varied or changed. The owner's title is as entire and perfect, within the jurisdiction of the State to which the Slave may have fled, as it was in the one from which he escaped. Such, substantially, is the language in which this article of the constitution has been expounded by many of the courts of judicature in those States where involuntary servitude has long ceased to exist as a civil institution. The commentary is in the same patriotic and conciliatory spirit, with which the provision itself was adopted.

The second Congress, as you know, passed an act (I allude to that of the 12th February, 1793.) which directs the mode in which fugitives from labour shall be apprehended and surrendered. I will not trouble you by detailing its provisions. I would merely remark, that the power of legislating upon this subject was plainly intended, as it seems to me, to be exclusively conferred upon Congress. Its nature and objects required that it should be so. The whole value of the constitutional guarantee depended on it. Even a matter, in relation to which, so much excitement prevailed, and public opinion was so much divided, the power of State legislation would infallibly have produced the very mischief, which it was the sedulous care of the formers of the constitution to guard against.

But if the States have a concurrent right to legislate, as some have supposed, it is as inoperative as if it never had existed.—Congress has exercised the power;—the act of 1793 covers the whole subject of the grant, and nothing is left to State legislation. This principle of constitutional law has long since been settled beyond all controversy.

I am aware that some doubt has been thrown upon the constitutionality of this act of Congress, on the ground that there is no express delegation of legislative power, and that none can be fairly inferred. This doubt, however, has not found the slightest favour in any of our courts. So far as judicial decision has gone, the act of Congress has been held to be constitutional.

But if it were otherwise, if the provision in question was, as some have said, perfect in itself, working its own object, a *d* purpose, and therefore rendering federal legislation unnecessary, it would seem to follow that the State power is equally precluded, not only for the same reason, but also because the constitution being the supreme law of the land, all State legislation, repag-

nant to any of its provisions, or to the full and perfect enjoyment of the rights which it confers and intended to secure, must be necessarily void.

In any view of this subject then, Maryland holds that the act passed by the Legislature of Pennsylvania, on the 25th of March 1826, is unconstitutional, and of consequence that the prosecutions in question, which are expressly for a violation of that act, cannot be sustained. For it requires no labour of analysis to shew, that so far as it relates to fugitive slaves, it violates the constitution in letter and spirit, and actually attempts a repeal of the act of Congress of 1793. It assumes the power of prescribing the only manner in which fugitives from labour shall be reclaimed. It determines the mode and measure of proof.— It authorises the continuance of cases, at the instance of the fugitive, but at the expense of the owner. It burdens him with recognizances, and finally subjects him, as a kidnapper and felon, to grievous fines and protracted imprisonment, even tho' he strictly and literally conforms to all the requisitions of the act of Congress.

While Maryland complains of this law, however, in its operation upon her citizens, she instructs me to say, that she intends no imputation upon the Legislature that enacted it, nor can she believe that Pennsylvania feels a less scrupulous regard to her federal obligations, than the most loyal and patriotic State of the Union.

I have thus very briefly stated the grounds on which I am directed to place the application for a dismissal of the indictments referred to.

If, however, contrary to the expectation I indulge, the Legislature of Pennsylvania, on a careful re-consideration of the act of 1826, shall fail to see in its provisions any repugnancy to the constitution or Law of the United States, then I am further instructed to offer a submission of this difference of opinion between the two States to the judgement of the Supreme Court of the United States, as the only constitutional arbitrator in such cases; on a single condition however, so just and proper in itself, that I will anticipate no objection to its acceptance, the personal safety of the accused, until a final decision shall be pronounced; such an arrangement may be easily effected by legislative assistance.

But if in that spirit of magnanimity which illustrates her annals, Pennsylvania, seeing the error of her legislation, should correct it by a repeal of the act of 1826, I am authorised to say

that Maryland desires no further action upon the subject, unless Pennsylvania, regarding the act of Congress to be constitutional in all other respects, shall see fit to empower her magistrates to give aid and assistance in its execution.

These sir, are the objects of the mission, with which I have been charged. They of course, require legislative action; and in asking to have them submitted to the consideration of the Legislature by his Excellency the Governor, I can wish no more patriotic, liberal and enlightened spirit to accompany them, than that which dictated what is so well and forcibly said upon the general subject to which they relate in His Excellency's Inaugural address.

I have the honor to be,

With very great respect,

Your obedient servant,

J. MEREDITH.

Harrisburg, Feb. 12, 1839,

No. 10.

SECRETARY'S OFFICE,
February, 14, 1839.

J. MEREDITH, Esq.,

Commissioner of the State of Maryland.

Sir:—I have the honor to acknowledge the receipt of your communication, accompanied with a copy of the resolutions adopted by the Legislature of the State of Maryland, relative to certain prosecutions pending in the Court of Oyer and Terminer of York county, against Nathan S. Bemis and others, citizens of the State of Maryland, for alleged violations of the Laws of Pennsylvania, relating to fugitives from labor, all of which I immediately presented to the Governor, who has given directions that they be copied and transmitted to the General Assembly.

I am yours respectfully,

F. R. SHUNK.

No. 11.

MESSAGE of the Governor of Pennsylvania, accompanying my letter to the Secretary of the State, of the 12th of February.

*To the Senate and House of Representatives
of the Commonwealth of Pennsylvania.*

GENTLEMEN:—I have the honor herewith to transmit copies of a communication and accompanying documents received from

J. Meredith, Esq., commissioner appointed by the Governor of the State of Maryland, under a resolution of the Legislature of that State, with power to proceed to Harrisburg, and endeavour to procure the dismissal of certain prosecutions pending in the Court of Oyer and Terminer of York county, against Nathan S. Bemis and other citizens of Maryland, for an alleged violation of the Laws of this State, relative to fugitives from labour; or to make such arrangements as may be found necessary to refer the constitutional question said to be involved in these prosecutions to the decision of the Supreme Court of the United States.

These proceedings of our sister State, marked by deep interest in the subject to which they relate, present a grave question for the consideration of the Legislature of Pennsylvania, which will, I am satisfied, be discussed and decided in that friendly spirit, and regard to justice, which has hitherto distinguished the intercourse between the States.

I would respectfully ask the immediate attention of the Legislature to this subject, as the commissioner of the State of Maryland is now in attendance at the seat of Government.

DAVID R. PORTER.

Harrisburg, Feb. 16, 1839.

No. 12.

Sir :—I understand that the communication which I had the honor to make to His Excellency the Governor of Pennsylvania on the 12th inst. transmitting a copy of the Resolutions of the Legislature of Maryland, declaratory of the rights of the citizens of that State over their fugitive slaves, was this morning sent by message to the Senate (House of Representatives) and referred to the Committee on the Judiciary system, of which you are the Chairman. I beg leave therefore to say, that it will give me great pleasure, to put into possession of the Committee the facts I have collected, in relation to the case of Bemis and others; and to make such further explanation of the views of the State of Maryland, and the objects she desires to have accomplished, as the committee shall deem necessary.

I have the honor to be,

with great respect,

your most obed't. servant,

J. MEREDITH.

Harrisburg, February 16, 1838.

A copy of the above was sent to Hon. I. J. Pearson, Chairman of the Committee on the Judiciary system in the Senate of

Pennsylvania, and also to Hon. Frederick Smith, Chairman of the Committee on the Judiciary system in the House of Representatives of Pennsylvania.

No. 13.

Harrisburg, February 16, 1859.

Dear Sir:—It will give me great pleasure to receive from you any communications on the subject, to which you refer in your letter of the 16th inst. The committee will be in session on Monday at 4 o'clock, P. M., and will be happy to receive you and have your views on the matters referred to in the Executive Message.

If it was your desire to have had an earlier interview with the Judiciary Committee, I regret that we were not informed of it at an hour of this day when we might have assembled for the purpose.

I have the honor to be,
yours, &c.,

J. J. PEARSON.

J. MEREDITH, Esq.,

No. 14.

Hall of the House of Representatives of Pennsylvania.

Sir:—The committee on the Judiciary system of this House will meet this afternoon at 4 o'clock in the Library Room.

The Committee will be much gratified to see you present with them, and to hear your views on the subject on which you spoke to me yesterday.

Yours respectfully,

FREDERICK SMITH.

March 7, 1859.

J. MEREDITH, Esq.,

No. 15.

An act relating to certain Indictments in the Courts of York County.

Section 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That upon the voluntary surrender of Nathan S. Bemis, Jacob Farwood, Edward Prigg and Stephen Lewis, or either of them, to the Court of Quarter Sessions of the Peace for the

County of York, to answer unto certain bills of indictment for kidnapping, now depending against them in said court, the judges of said court shall and may, and are hereby authorized and directed to take the several recognizances of the said parties or either of them, so surrendering as aforesaid, in the penalty of one thousand dollars, each conditioned for his appearance to answer unto said indictments, and to abide by such final decision in the premises as shall be had and made in the manner herein-after provided for.

Sec. 2. After the said recognizance or recognizances shall have been entered into as aforesaid, it shall be lawful for the Attorney General of this Commonwealth, and the defendant or defendants, or their counsel, to agree to a written statement of all the facts relating to the charges contained in said indictments, which facts when so agreed upon shall be placed upon, and be made part of the record in the form of a special verdict, and in case no such statement of facts shall be agreed upon the jury of the said Court of Quarter Sessions shall, under the direction of said court, find a special verdict in each of said indictments submitted to them, incorporating therein all such facts as shall be given in evidence for, and in behalf of the Commonwealth or said defendants or either of them, so that all questions touching the constitutionality of an act of the Legislature of this Commonwealth, passed on the twenty-fifth day of March, Anno Domini eighteen hundred and twenty-six, entitled, "an act to give effect to the provisions of the Constitution of the United States relative to fugitives from labour and for the protection of free people of color, and to prevent kidnapping," and all the laws of this Commonwealth, so far as the same applies to the said indictment or either of them, may be fully and clearly raised upon said special verdict.

Sec. 3. Upon the finding or agreeing upon a special verdict as aforesaid, the said Court of Quarter Sessions shall enter and pronounce such judgment as to it shall seem lawful, and if the same shall be in favour of the defendant or defendants the Attorney General of this Commonwealth shall cause the same to be removed by writ of error into the Supreme Court of Pennsylvania, at the next sitting thereof for the middle district after the judgment aforesaid, and like recognizances for the appearance of the said defendant or defendants from time to time shall be taken by said Court of Quarter Sessions, as is directed in the first section of this act, and if said judgment is in favour of the Commonwealth, then and in such cases the court shall not

award sentence against the said defendants or either of them, provided they shall respectively make oath of their determination to sue out a writ of error, and that the same is not intended for delay and on such judgment, either of said defendants shall be entitled to sue out a writ of error as matter of right, and remove said records respectively into the Supreme Court of the middle district of Pennsylvania, which is hereby required to take cognizance thereof, and give such judgment thereon as to said court shall seem lawful.

Sec. 4. If upon such hearing the Supreme Court shall give judgment in favor of the Commonwealth on the case or cases so removed on the defendant or defendants making oath of an intention to sue out a writ of error from the Supreme Court of the United States and that the same is not intended for delay, it shall be lawful for said court to retain said record for the space of _____ months and to certify said record or records to the Supreme Court of the United States, or any writ or writs of error directed to it from said court, according to the acts of Congress in such cases made and provided, and if no such writ or writs of error are issued to said court within the time aforesaid said record or records shall be remitted to the Court of Quarter Sessions of York County for final sentence according to the laws of this Commonwealth.

But if the decision of the Supreme Court of Pennsylvania upon the record or records aforesaid shall be in favor of the defendant or defendants, such court shall enter judgment or judgments of acquittal on said verdict or verdicts and that the person or persons so acquitted shall go without day.

Sec. 5. If the judgment of the Supreme Court of Pennsylvania, in said case or cases shall be reversed by the Supreme Court of the United States, all further proceedings on said indictments against the said Bemis, Forwood, Prigg and Lewis shall be discontinued and a judgment of acquittal shall be entered thereon, but if said judgment or judgments shall be affirmed, then and in such case, the said Court of Quarter sessions of the peace for the County of York, shall and may on being certified of such affirmance, proceed to award sentence against the defendants or such of them as shall have surrendered themselves, and been tried as aforesaid according to the acts of Assembly of this Commonwealth, in such cases made and provided.

Sec. 6. The Attorney General of this Commonwealth shall and he is hereby authorized and required to procure a hearing of the aforesaid case or cases upon the record or records so certified

before the Supreme Court of Pennsylvania and the Supreme Court of the United States as were or may be according to the rules and practice of said courts.

Harrisburg, March 12, 1839.

I certify that the foregoing is a true copy of a bill reported by the Committee of the Judiciary system in the Senate of Pennsylvania.

GEORGE W. HAMERSLY,
Clerk, Senate of Pennsylvania.

No. 16.

An act, relating to the trial of Bemis, and others, in York county.

Section 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That upon the voluntary surrender of Nathau S. Bemis, Jacob Forward, Edward Prigg and Stephen Lewis, or either of them, to the court of quarter sessions of the peace, for the county of York to answer unto certain bills of indictment for kidnapping, now depending against them in said court; the judges of said court shall and may, and they are hereby authorized and directed to take the several recognizances of the said parties or of either of them so surrendering as aforesaid, in the penalty of one thousand dollars each, conditioned for his appearance to answer unto said indictments and to abide by such final decision in the premises as shall be had and made in the manner hereinafter provided for.

Sec. 2. That after said recognizance or recognizances shall have been entered into by the said parties, or either of them, the attorney general of this commonwealth, shall and may, by and with the consent of said parties or their counsel, prepare and agree to a written statement of all the facts, relating to all the charges contained in said indictments, which facts when so agreed upon, shall be found at the next succeeding term of said court of quarter sessions of the peace, for the county of York aforesaid, by the jury then and there empanelled, to try said indictments or either of them, in the form of a special verdict, and in case no such statement of facts shall be agreed upon, then and in such case, the said jury shall find a special verdict under the direction of said court, incorporating therein, all such facts as shall be given, in evidence for and in behalf of the commonwealth or the said defendants or either of them, so as that all question_s

touching the constitutionality of an act of the Legislature of Pennsylvania, passed on the twenty-fifth of March, eighteen hundred and twenty-six, entitled "an act to give effect to the provisions of the constitution of the United States, relative to fugitives from labor, for the protection of the free people of colour, and to prevent kidnapping," so far as said act applies to said indictments or either of them, may be fully and clearly raised upon such special verdict.

Sec. 3. That upon the finding of such special verdict, the said court of quarter sessions of the peace, for the said county of York, shall and may give and pronounce judgment, and if such judgment shall be in favor of the defendant or defendants, then and in that case the said court shall and may direct and order the said indictment or indictments to be quashed, and no further proceedings shall be had thereon, but if said judgment shall be in favor of the commonwealth then and in such case the said court shall not award sentence against the said defendants or either of them; provided, that within months after such judgment shall have been pronounced the said defendants, or such of them as shall so as aforesaid, surrender and submit to a trial, shall sue out a writ of error in the Supreme Court of Pennsylvania, in which case the said court of quarter sessions of the peace, for the county of York, shall and may transmit the record or records in said case or cases to the said Supreme Court of Pennsylvania.

Sec. 4. That the Supreme Court of Pennsylvania, shall and may at the first session of the said court, to be holden in the city of Philadelphia, after said record or records shall be so transmitted, proceed to hear and determine the said case or cases so removed, and if upon such hearing the said Supreme Court shall reverse the judgment or judgments of the said court of quarter sessions of the peace for the said county of York, then and in such case the said indictment or indictments shall be squashed, and all further proceedings thereon be discontinued; but if said judgment or judgments shall be affirmed then and in that case, upon a writ or writs of error sued out of the Supreme Court of the United States, by the defendants or either of them within months, from and after such affirmance, the said Supreme Court of Pennsylvania shall and may certify the record or records in the said case or cases to the said Supreme Court of the United States according to the act of Congress in such case made and provided.

Sec. 5. That the Attorney General of this Commonwealth, shall, and he is hereby authorized and directed to procure a hearing of the said case or cases upon the record or records so certified, before the Supreme Court of the United States, as soon as may be according to the rules and practice of said court.

Sec. 6. That if the judgment of the Supreme Court of Pennsylvania, in said case or cases shall be reversed by the Supreme Court of the United States, all further proceedings on said indictments against the said Bemis, Forword, Prigg, and Lewis, shall be discontinued, and a judgment of acquittal shall be entered thereon but if said judgment or judgments shall be affirmed, then and in such case, the said court of quarter sessions for the peace, for the county of York, shall and may on being certified of such affirmance, proceed to award sentence against the defendants or such of them as shall have surrendered, as aforesaid, according to the act of Assembly, in such case made and provided.